

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

TRAVIS CHERRY,

Plaintiff.

v.

TERRY GLENN, et al.,

Defendants.

CV 17-00026-H-DLC-JTJ

FINDINGS AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE JUDGE

On February 13 and 14, 2017, mail to sent to Plaintiff Travis Cherry, was returned as undeliverable. (Docs. 8, 9.) The Local Rules for the District of Montana provide:

- (b) Dismissal Due to Failure to Notify. The Court may dismiss a complaint without prejudice or strike an answer when:
  - (1) a document directed to the attorney or self-represented party by the court has been returned to the court as not deliverable; and
  - (2) the court fails to receive within 60 days of this return a written communication from the attorney or self-represented party indicating a current address for service.

L.R. 5.2(b). The Court's Orders mailed to Mr. Cherry were returned to the Court as undeliverable on February 13, and 14, 2017. Within the following 60-day period, and as of the date of this recommendation, Mr. Cherry has not provided the Court with a written notice informing it of his change of address.

Therefore, IT IS HEREBY RECOMMENDED that this action be DISMISSED without prejudice pursuant to L.R. 5.2(b).

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Mr. Cherry may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.<sup>1</sup> 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 17th day of April 2017.

/s/ John Johnston  
John Johnston  
United States Magistrate Judge

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<sup>1</sup>As this deadline allows a party to act after the Findings and Recommendations is “served,” it falls under Fed.R.Civ.P. 6(d). Therefore, three (3) days are added after the period would otherwise expire.